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TAGS: [PREL](#) [PHUM](#) [ETTC](#) [MCAP](#) [KN](#) [UNSC](#)
SUBJECT: DPRK: EXPERTS INVESTIGATE SANCTIONS VIOLATIONS,
REQUEST INFO

Classified By: Amb. Alejandro Wolff for Reasons 1.4 (B), (D)

¶1. (C) SUMMARY AND ACTION REQUEST: The Panel of Experts (POE), a team mandated in UNSCR 1874 to help monitor and improve implementation of UN sanctions on North Korea, has launched investigations into the four sanctions violations reported to the Security Council's DPRK Sanctions Committee ("1718 Committee"). The team is entering a make-or-break period: it has only three months or so to wrap up its investigations in time to finish its final report due in May ¶2010. The POE plans to submit to the Committee an "incident report" for each violation that will lay out relevant facts, analysis and recommendations for actions the Committee may take in response. To aid its work, the POE will travel to key capitals, mostly in Asia, in January and February. The POE has requested that "friendly governments" supply them with more information and leads to aid these and other investigations. USUN requests that Washington consider favorably the POE's request for more information. END SUMMARY AND ACTION REQUEST.

POE: SLOWLY GETTING UP TO SPEED

¶2. (C) Halfway through its year-long mandate, the UN Panel of Experts (POE) -- a seven-person independent team mandated by UNSCR 1874 to monitor the enforcement of UN sanctions on North Korea and recommend ways to improve their implementation -- has launched investigations into the four sanctions violations reported to the Security Council's DPRK Sanctions Committee ("1718 Committee"). These investigations will occur during a critical make-or-break period for the Panel: it must complete its investigations in the first three months of 2010 in order to be able to finish its final report due to the Council in May 2010. The POE's work in this short window will be an important factor in whether the Council decides to renew the POE's mandate in June 2010.

¶3. (C) Established in June 2009 but not operational until October, the POE has had a slow start and only recently begun investigating these violations. The POE -- whose members come from the P-5 countries, Japan and South Korea -- has also faced internal disagreements about how aggressively it should carry out its mission. The Security Council itself has offered conflicting advice, with the P-3 and Japan having encouraged the team to investigate sanctions violations aggressively, while China and Russia have urged greater caution. China and Russia have also begun to assert that work of the Committee and POE must not interfere with talks on denuclearization, implying that the work of both the POE and Committee should be put on the back burner if there is a resumption of substantive dialogue with Pyongyang.

14. (C) On January 12, USUN convened a meeting with the U.S., UK, French, Japanese and South Korean members of the POE and expert-level representatives from these countries' missions to discuss the POE's approach to investigating sanctions violations. (NOTE: This format excludes the Russian and Chinese POE members, who have been more cautious with respect to the POE's work. END NOTE). USUN emphasized to the POE its clear directive in UNSCR 1874 to "gather, examine and analyze information" regarding the sanctions implementation "...in particular incidents of non-compliance." In line with that mandate, USUN and other mission representatives urged the POE to be proactive and aggressive in investigating and following-up on all reported sanctions violations.

15. (C) During the discussion, the mission experts and POE discussed a general approach for the POE to deal with sanctions violations reported to the 1718 Committee, namely:

-- As soon as the report is received, the POE will reach out to the country reporting the incident;

-- The Committee will immediately write to the reporting state to request more information and urge full cooperation with the POE;

-- If appropriate and upon invitation from the reporting state, the POE will arrange site visits to inspect the contraband;

-- After assembling the facts, the POE will submit for the Committee's consideration an "incident report" that includes factual reporting, analysis and recommendations for Committee or Council action to be taken in response;

-- The POE will also be prepared to answer requests for information or guidance from reporting states, such as where states may get assistance in disposing of seized cargo.

16. (C) USUN emphasized that the POE was not limited to investigating violations formally reported to the Committee, but should also be following its own leads. USUN added that the POE should work with supportive missions to brainstorm actions the Committee can take to respond to sanctions violations, as these incidents can be used as leverage to engage states and improve sanctions implementation. Such actions could include publicizing relevant details of a violation through positing an "Implementation Assistance Notice" on the Committee's website, writing additional letters to states involved in violations, considering additional sanctions designations or even raising the issue to the attention of the Security Council.

UPDATE ON FOUR REPORTED VIOLATIONS

17. (C) POE Coordinator David Birch (UK) briefed mission experts on the state of play of the four sanctions violations reported to the 1718 Committee in 2009:

-- "ANL Australia" (a violation reported by the UAE in August 2009 involving the transfer of arms-related materiel from Iran to the DPRK): Birch explained that the POE had engaged the UAE mission in New York and was waiting for a formal visit to inspect the cargo, preferably in January. The UAE authorities, he said, may wish for the POE to be present when the cargo is destroyed. The POE has also been analyzing additional information supplied by Member States in the fall in response to requests from the Committee regarding the incident.

-- "MS Rachele" (a violation reported by South Korea in October involving the transfer of chemical warfare protection suits from the DPRK to Syria): Birch reported that the POE had inspected the suits on a December visit to the South

Korean port of Busan. He noted that although some Committee members believed that the protection suits did not constitute "arms-related materiel" for the purposes of UNSCR 1874, the team's visit to South Korea had uncovered facts that supported the conclusion that these suits were primarily for military use. The POE has begun drafting an incident report, but is still negotiating the language with the Russian/Chinese experts who believed the items had a plausible civilian use.

-- Thai air seizure (a violation reported by Thailand in December 2009 involving the transfer of arms from the DPRK aboard an aircraft): Birch said that the POE was also waiting on an invitation to visit Bangkok to inspect the items. The POE hoped to schedule this trip in late January, but was frustrated that the Thai mission, which seemed unclear about what they should do in the aftermath of this incident, had not yet extended a formal invitation. Mission representatives agreed to prod the Thais to issue one soon. At the same time, the 1718 Committee is poised to send letters to all the states involved in the incident requesting additional information and cooperation with the POE.

-- Luxury yachts (a violation reported by Austria in December involving the DPRK's attempt to procure yachts, which are a "luxury good" banned for export under UNSCR 1718): Birch said the report from Austria illustrated the need for the Committee to help states define what "luxury goods." He said the POE had already detected a wide disparity in national practice regarding the implementation of this provision. In addition to engaging with the Austrians and the Italian authorities who later seized the yachts the POE is now working on draft guidance on the definition of "luxury goods" that the Committee may wish to publish on its website.

LOOKING FOR LEADS -----

¶8. (C) The POE reiterated its request that "friendly governments" provide it with information and leads that might

aid its investigations. Vic Comras, the U.S. expert on the team, suggested that such information could be shared privately (i.e., with only him or with a trusted subset of the POE). This information, Comras and the other POE members asserted, could help the POE focus its limited time and resources on the investigations most likely to bear fruit. Comras also said that the POE could agree not to identify the United States as the source of information. The information, Comras proposed, could then be repackaged in a formal POE report sent to the Committee, thereby enhancing its credibility.

¶10. (C) ACTION REQUEST: USUN recommends that Washington consider seriously the POE request for more information or leads that might help focus the team's efforts. The regular provision of such information could significantly improve the POE's ability to support better enforcement of the UN sanctions imposed on North Korea. END ACTION REQUEST.

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